IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE KURIAN JOSEPH

WEDNESDAY, THE 25TH JULY 2007 / 3RD SRAVANA 1929

WP(C).No. 5950 of 2005(G)

PETITIONER:

M/S.CARDAMOM MARKETING CORPORATION,
VANDANMETTU, IDUKKI DISTRICT-685 551,
REPRESENTED BY ITS MANAGING PARTNER,
MR.R.KRISHNASWAMY.

BY ADV. SRI.JOSEPH KODIANTHARA
SRI.MITHUN MARKOS

RESPONDENTS:

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1. THE UNION OF INDIA,
REPRESENTED BY THE SECRETARY,MINISTRY OF FINANCE,
(DEPARTMENT OF REVENUE), NORTH BLOCK,
NEW DELHI-110 001.

2. THE COMMISSIONER OF CENTRAL EXCISE,
CENTRAL REVENUE BUILDINGS, I.S.PRESS ROAD,
ERNAKULAM, COCHIN-682 318.

3. THE SUPERINTENDENT OF CENTRAL EXCISE,
OFFICE OF THE SUPERINTENDENT OF CENTRAL EXCISE,
VANDIPERIYAR RANGE, VANDIPERIYAR, IDUKKI DIST.

BY ADV. SRI.JOHN VARGHESE, ASSISTANT SG
SRI. P. PARAMESWARAN NAIR, ASG

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 25/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: TRUE COPY OF THE RELEVANT EXTRACT OF THE BUDGET SPEECH OF THE HON'BLE FINANCE MINISTER FOR THE YEAR 2004-05 DATED NIL.

EXT.P2: TRUE COPY OF THE RELEVANT EXTRACTS OF THE FINANCE ACT, 1994 DATED NIL.

EXT.P3: TRUE COPY OF THE RELEVANT EXTRACTS OF SERVICE TAX RULES, 1994 AS AMENDED UPTO SEPTEMBER 2004 DATED NIL.

EXT.P4: TRUE COPY OF THE CIRCULAR DATED 10TH SEPTEMBER 2004 ISSUED BY THE FINANCE MINISTRY CIRCULAR NO. F NO. B-2/8/2004-TRU DATED 10.09.2004.

EXT.P5: TRUE COPY OF THE NOTIFICATION DATED 03.12.2004 ISSUED BY THE CENTRAL GOVERNMENT PUBLISHED VIDE NOTIFICATION NO.32/2004-ST.

EXT.P6: TRUE COPY OF THE NOTIFICATION DATED 03.12.2004 ISSUED BY THE CENTRAL GOVERNMENT PUBLISHED VIDE NOTIFICATION NO. 33/2004-ST.

EXT.P7: TRUE COPY OF THE NOTIFICATION DATED 03.12.2004 ISSUED BY THE CENTRAL GOVERNMENT PUBLISHED VIDE NOTIFICATION NO.34/2004-ST.

EXT.P8: TRUE COPY OF THE NOTIFICATION DATED 03.12.2004 ISSUED BY THE CENTRAL GOVERNMENT PUBLISHED VIDE NOTIFICATION NO.35/2004-ST.

EXT.P9: TRUE COPY OF LETTER DATED 31.01.2005 ISSUED BY THE 3RD RESPONDENT TO THE PETITIONER.L

RESPONDENTS' EXHIBITS:

EXT.R1(a): TRUE COPY OF NOTIFICATION NO.36/2004 SERVICE TAX DT. 31.12.2004.

/True Copy/

P.A to Judge.

KURIAN JOSEPH , J

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W.P.(C) NO. 5950 OF 2005

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Dated this the 25th day of July, 2007.

JUDGMENT

Whether the petitioner is liable to pay service tax during the period from 01.01.2005 to 13.05.2005 is the question raised in this writ petition. The same is covered in favour of the petitioner by the decision of this Court in W.P.C. No. 4838/2005. For parity of reasons, the writ petition is allowed declaring that there is no liability for the petitioner to pay service tax in respect of the above period.

KURIAN JOSEPH, JUDGE.

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